



Mashpee Wampanoag Tribe
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**Statement of Cedric Cromwell, Chairman, Mashpee Wampanoag Tribe
Interior Department Consultation on proposed draft to reform Federal Acknowledgment Process.**

Good morning, my name is Cedric Cromwell, I am Chairman of the Mashpee Wampanoag Tribe, and I want to thank you for holding this consultation on the proposal for much needed reform of the federal acknowledgment process. I am glad that the Department is proposing to keep its promise to fix a system that has been broken for years, leaving behind generations of abuse, waste, and broken dreams.

My Tribe was acknowledged by the Interior Department in 2007, nearly 30 years after we started a process that kept on changing until the technical requirements of satisfying the criteria far exceeded the substance of what should have been critical – whether the Mashpee Wampanoag Tribe was in fact an Indian Tribe whose status had been unfairly neglected by the Federal government, and whether the United States should admit its mistake and undertake its responsibility to my people.

Admitting a mistake. That's what federal acknowledgment really is. Not creating a tribe. Not granting any rights or privileges that are somehow magically available once federal status exists. Once a tribe has successfully completed the process, and gotten a Final Positive Determination (and if that Final Positive is not taken away in appeals), then the United States has admitted that for the long years from the beginning of the Republic to the present, the federal government has overlooked its duty. But it's a pretty small admission, and it doesn't come with an apology or compensation. Just a chance to start - and try desperately - to fill in the blanks for housing, health care, education and infrastructure that have been missing in the tribal communities that somehow managed to survive intact - and also to survive the federal acknowledgment process.

We managed to survive, but it wasn't easy. For four hundred years, we survived plagues, colonization, displacement and outright land grabs. We survived the Indian schools, the depression and the not so benign oversight of royal, colonial and state governments. We lost many of our people and most of our land. In the acknowledgment process, we proved all that we had to, but we also paid for it. Not only in money, but in lost time, lost opportunities, and the pain of watching our elders pass on before the United States would publicly admit its mistake. We are still paying, but we are now starting to build.

Other tribes are still stuck in the process. Why should they have to pay millions of dollars and endure decades of bureaucracy because the United States can't keep track of the tribes it is bound to protect? Why has the burden come to be as onerous as a criminal prosecution? Why is tribal identity dependent on the label used by outsiders – and why is the recorded data of invaders more important and more valuable than tribal learning and tradition?

We are encouraged by the draft proposal offered by the Department. While we were able to document our Tribe's history for a period extending nearly four centuries, we don't think that exercise should be necessary. Many Indian tribes in the Northeast, particularly, survived through invisibility, and in disguise. If they can demonstrate their Tribal identity in 1934 – a period when there was no discernible advantage in existing as a tribe – and show that they have met the criteria for tribal existence from that

point forward, then there is no need to accumulate boxes of historic material to demonstrate how that tribe managed to survive the centuries since European contact. We agree that a core part of the process must be to determine tribal existence and tribal continuity. But no tribe should have to travel to England or France or Spain to secure colonial records, no tribe should be disqualified because 19th century records were discarded or libraries destroyed. A Tribe like ours spent centuries at the mercy of the state government because the federal government didn't step up. Except to consider removing us west of the Mississippi. And except to put our children in Indian schools. Except to take our land for military purposes, after the state violated our protection against sale, and allotted and taxed our land base out of existence.

Survival as a non-federal tribal community has always been a challenge. The federal acknowledgment process has become nothing other than a nightmare. By all means, clarify the burden, pare down unnecessary data collection, and make it more likely that the United States will finally assume responsibility for the tribes that have managed to survive decades and centuries of neglect. We at Mashpee do not believe that such reform would be "Lowering the bar" as some complain; we believe that it would, finally, be an honest opportunity for the United States to assess and fulfill its responsibility to Indian Tribes. By all means, keep meaningful criteria in place to determine whether a tribe still exists, but realize that an uninterrupted relationship between a tribe and a state is virtually complete evidence of survival. We agree that certain circumstances justify an expedited positive determination, and not just the expedited negative in the current rules. Most of all, we agree that the burden of proof should be clarified – and observed – so that a Tribe need only show that they have demonstrated that the criteria are met – more likely than not. There is no need for conclusive proof of criteria that are, by nature, elusive and subjective.

If you do move forward with reform, please be aware that prior precedent should not be allowed to taint the process going forward. We are glad you understand that the process needs fixing. Decisions over the last decade or so should not determine how the criteria should be evaluated in the future. If you keep the flaws of the recent past, they will defeat the benefit of any new rules. Going forward with these rules, I suggest that you include in your working group representatives from tribes that have recently experienced the process – with both positive and negative outcomes. They can surely tell you where the bodies are buried.

Here in Maine, the Passamaquoddy Tribe once asked the United States to step up to protect tribal lands under the non-Intercourse Act. The United States refused, because the Tribe was not then recognized, but the courts did not accept that excuse. In that case, the federal courts reminded the United States that it owed at least some trust responsibility to a tribe that might, in fact, merit federal acknowledgment. That trust responsibility should be the basis for an acknowledgment process that lights the way to a delayed government to government relationship – not one that sets up increasing and ever changing obstacles to that relationship.

Regards,

A handwritten signature in black ink, appearing to read "Cedric Cromwell". The signature is fluid and cursive, with a large, stylized "C" at the beginning and a long, sweeping underline.

Cedric Cromwell
Chairman
Mashpee Wampanoag Tribe